

FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
MARKET DISPUTES RESOLUTION DIVISION
445 TWELFTH STREET, S.W.
WASHINGTON, D.C. 20554
FAX NO: (202) 418-0435

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John Davidson Thomas
Genevieve Sapir
Hogan & Hartson LLP
Columbia Square
555 Thirteenth Street, N.W.
Washington, DC 20004
FAX: 202-637-5910
Counsel for Cable Operators

Shirley S. Fujimoto
Erika E. Olsen
McDermott Will & Emery LLP
600 Thirteenth Street, N.W.
Washington, DC 20005-3096
FAX: 202-756-8087
Counsel for Entergy Arkansas, Inc.

Re: *Arkansas Cable Telecommunications Association, et al. v. Entergy Arkansas, Inc.*

Dear Counsel:

EB-05-MD-004

On February 18, 2005, Arkansas Cable Telecommunications Association and four cable operators in the state of Arkansas (collectively, "Complainants") filed a complaint against Entergy Arkansas, Inc. ("Entergy").¹ The Complaint alleged, *inter alia*, that Entergy violated section 224 of the Communications Act of 1934, as amended (the "Act"),² by imposing unjust, unreasonable and discriminatory pole attachment terms and conditions on cable operators in Arkansas. Entergy filed its Response on April 19, 2005,³ and Complainants filed their Reply on June 10, 2005.⁴

As Commission staff discussed in a conference call with counsel for both parties yesterday, we request, pursuant to 47 C.F.R. §§ 1.1409(a) and 1.1415, that the parties provide additional material for the Commission's consideration in connection with this proceeding. Specifically, we direct the parties to prepare and file a Joint Statement addressing, in separate numbered paragraphs the factual and legal issues relevant to each claim or defense in this proceeding. The Joint Statement should set forth the following information:

1) Stipulated facts. The parties should stipulate to as many facts as possible, including, without limitation, the parties' identities and business addresses, the nature and duration of their business relationship, the development of the dispute, and the authenticity of the parties' pole attachment agreements and other exhibits.

2) Disputed facts. The parties should identify those facts in dispute as to which either or both parties seek a finding from the Commission in this proceeding. The parties should also **briefly** state their differing positions on each disputed factual issue. Additionally, with respect to each disputed fact, the asserting party should cite, with particularity, all record evidence supporting the fact, and the opposing party should do the same regarding evidence refuting that fact.

¹ Pole Attachment Complaint (filed on Feb. 18, 2005) ("Complaint").

² 47 U.S.C. § 224

³ Response to Complaint (filed on April 19, 2005) ("Response").

⁴ Reply to Defendant's Response (filed June 10, 2005) ("Reply").

3) Legal issues. The parties should identify those legal issues as to which either or both parties seek a conclusion from the Commission in this proceeding. The parties should also **briefly** state their differing positions on each disputed legal issue.

The parties should indicate in the Joint Statement which disputed factual and legal issues must be decided by the Commission in order to rule on each claim for relief or defense asserted by the parties in this proceeding. If certain legal or factual issues are relevant to the claims of some, but not all, of the complainants, the parties should indicate that.

The parties shall file the Joint Statement by no later than **August 22, 2005**. We also request that the parties confer with one another regarding their respective schedules and provide staff, by no later than July 27, 2005, with dates in the week of September 19 – 23, 2005 when both parties would be available for a status conference in this proceeding.

This ruling is issued pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, 47 U.S.C. §§ 154(i) and 154(j), and sections 1.1409, and 1.1415 of the Commission's rules, 47 C.F.R. §§ 1.46, 1.1407, and 1.1415.

FEDERAL COMMUNICATIONS COMMISSION



Lisa J. Saks
Assistant Chief, Market Disputes Resolution Division
Enforcement Bureau